IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

TUESDAY, THE 25TH SEPTEMBER 2007 / 3RD ASWINA 1929

WP(C).No. 22696 of 2007(B)

PETITIONER:

ASOKAN K.,
SPECIAL GRADE PEON, KERALA STATE FINANCIAL ENTERPRISES, HARIPAD BRANCH, RESIDING AT PALLICKAL VETTUVENI, HARIPAD.

BY ADV. SRI.P.SREEKUMAR
SRI.K.S.MANU (PUNUKKONNOOR)

RESPONDENTS:

---

1. THE ADMINISTRATIVE OFFICER,
KERALA STATE FINANCIAL ENTERPRISES,
CORPORATE OFFICE, BHADRATHA, THRISSUR.

2. THE BRANCH MANAGER,
KERALA STATE FINANCIAL ENTERPRISES,HARIPAD BRANCH.

3. VILAPPIL CO-OPERATIVE RURAL DEVELOPMENT SOCIETY LTD.NO. 1494, REPRESENTED BY ITS SECRETARY
PEYAD, THIRUVANANTHAPURAM-695573.

4. JAYAKUMAR,
GAYTHRI BHAVAN, KUNNUVILA, THACHOTTUKAVU,
PEYAD, THIRUVANANTHAPURAM.

BY ADV. SRI.M.SASINDRAN, SC, K.S.F.E., LTD.
SRI.B.S.SWATHY KUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 25/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC. 22696/2007.

APPENDIX

PETITIONER'S EXTS:

EXT. P1 : A TRUE COPY OF THE AGREEMENT DATED 10.4.2003 EXECUTED BY THE PETITIONER ALONG WITH HIS SALARY CERTIFICATE.

EXT. P2 : A TRUE COPYOF THE LETTER DATED 10.3.2005 ISSUED BY THE 3RD RESPONDENT TO THE 2ND RESPONDENT.

EXT. P3 : A TRUE COPYOF THE LETTER DATED 28.4.2007 OF THE 3RD RESPONDENT ISSUED TO THE 2ND RESPONDENT.

EXT. P4 : A TRUE COPY OF THE REQUEST DATED 3.5.2007 SUBMITTED BY THE PETITIONER.

K.M.JOSEPH, J.

- -

WP.(C) No.22696 of 2007

- -

Dated this the 25th day of September, 2007

JUDGMENT

The petitioner, at the time of filing the writ petition, was working as a Special Grade Peon under the third respondent. He retired on 31.7.1007. He stood as a surety to a loan availed by the fourth respondent from the third respondent. As per Ext.P1 agreement executed by the petitioner instalments can be recovered from his salary and no authority was given to the respondents to make any recovery from his retrial benefits including DCRG. The prayers in the writ petition are to quash Ext.P3 and not to deduct any amount from the petitioner's DCRG and other retrial benefits in terms of Ext.P1 agreement and on the basis of Ext.P3 communication. Declaration is also sought to the effect that the first respondent has got no authority to recover any amount from the petitioner's DCRG and other retrial benefits in terms of Ext. P1 agreement and on the basis of Ext.P3 communication.

2. I heard learned counsel for the third respondent Sri. B.S.Swathi Kumar and also learned counsel appearing on behalf of the fourth respondent.

3. The law is settled that unless there is an agreement empowering recovery from the DCRG, amount cannot be recovered from the DCRG on the strength of an agreement like Ext.P1. Ext.P1 is an agreement under Section 37 of the Kerala Co-operative Societies Act empowering recovery from salary. Accordingly it is declared that recovery cannot be effected from the DCRG of the petitioner for payment of any amount to the third respondent on the basis that petitioner stood as surety to the loan availed by the fourth respondent. Accordingly the amount of DCRG due to the petitioner will be released by the second respondent, unless the third respondent is able to produce an agreement empowering recovery of the amount from the DCRG of the petitioner before the second respondent within a period of one month from the date of receipt of a copy of this judgment.

The writ petition is disposed of as above.

(K.M. JOSEPH, JUDGE)

sb